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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 DONALD CHRISTOPHER MOORE,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON, *et al.*,

14 Defendants.
15

CASE NO. C09-592-RSM-BAT

REPORT AND RECOMMENDATION

16 On April 30, 2009, plaintiff Donald Christopher Moore presented to this Court for filing a
17 civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action
18 *in forma pauperis*. The claims asserted by plaintiff in his complaint appeared to arise out of criminal
19 proceedings which took place in the SeaTac Municipal Court in 2008. Specifically, plaintiff asserted
20 that he entered into a verbal agreement with a judge related to a judgment and sentence, that the
21 judge violated that verbal agreement, and that, as a result of the judge's actions, plaintiff was held in
22 jail for an additional three and a half months. Plaintiff further asserted that since his release from
23 custody, he had attempted to contact the court and his lawyer, apparently to pursue a collateral attack,
24 but he had received no response to his inquiries.

1 Plaintiff indicated that he was seeking to proceed against his attorney and the State of
2 Washington on claims of legal malpractice, breach of fiduciary duty, and misrepresentation relating
3 to the filing of a motion for collateral attack. He also asserted that his due process rights had been
4 violated. Plaintiff identified the State of Washington, SeaTac Municipal Court Judge Bejarano, and
5 attorney Jennifer Stewart as defendants in this action.

6 On May 15, 2009, plaintiff's application for leave to proceed *in forma pauperis* was granted
7 and his complaint was filed. (*See* Dkt. Nos. 3 and 4.) On the same date, this Court issued an Order
8 directing plaintiff to show cause why his complaint should not be dismissed pursuant to 28 U.S.C.
9 § 1915(e)(2)(B)(ii) and (iii) because plaintiff had not identified any viable defendant in this action.¹
10 (Dkt. No. 5.) Plaintiff was given thirty days within which to respond to the Order to Show Cause.
11 (*Id.*) The Court subsequently granted plaintiff an extension of time to June 30, 2009, to file his
12 response. (Dkt. No. 8.)

13 To date, plaintiff has filed no response to the Order to Show Cause. As plaintiff failed to
14 identify in his original complaint any defendant who is subject to suit under § 1983, and as plaintiff
15 has made no effort to demonstrate to the Court why this action should not be dismissed, this Court
16 recommends that plaintiff's complaint, and this action, be dismissed with prejudice pursuant to
17 § 1915(e)(2)(B)(ii) and (iii). A proposed order accompanies this Report and Recommendation.

18 DATED this 9th day of October, 2009.

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20 
21 BRIAN A. TSUCHIDA
22 United States Magistrate Judge
23

24 ¹ The Court explained that the State of Washington and Judge Bejarano were immune from
25 liability and that Ms. Stewart was not a state actor for purposes of § 1983. (*See* Dkt. No. 5 at 2.)